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EXAMINER

SHELEHEDA, JAMES R

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/882,091

Applicant(s)

CONNELLY, JAY H.

Examiner

James Sheleheda

Art Unit

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 November 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-129 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-129 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>2/26/02</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1, 2, 4-7, 9, 11-17, 19-30, 32-35, 61, 62, 64-74, 76-86, 88-106 and 108-129 are rejected under 35 U.S.C. 102(e) as being anticipated by Shah-Nazaroff et al. (Shah-Nazaroff) (6,317,881) (of record).

As to claim 1, Shah-Nazaroff discloses a method, comprising:

receiving broadcast communications (column 2, line 62-column 3, line 4)
including content descriptors (column 6, lines 39-47) via a first communications link from a broadcast source (column 6, lines 39-47), the content descriptors including descriptors of a plurality of corresponding content pieces (questionnaires for particular programs; column 6, lines 23-59 and Fig. 4);

performing a rating algorithm (generating the questionnaire for the user to rate the program; column 3, lines 22-32) to rate at least a portion of the plurality of content pieces to generate a rating feedback (column 3, lines 22-55 and column 6, lines 23-59);
and

transmitting the rating feedback via a second communications link to a remote location (column 3, lines 56-62).

As to claim 2, Shah-Nazaroff discloses wherein the first communications link and the second communications link comprise a common transmission platform (Fig. 1, 150; column 2, line 44-column 3, line 21 and 56-62).

As to claim 4, Shah-Nazaroff discloses wherein the rating feedback comprises a plurality of content pieces (column 6, lines 48-59), and wherein transmitting the rating feedback comprises periodically transmitting a batch of the rating feedback to the remote location (storing and transmitting several responses; column 6, lines 48-59), the remote location being linked to the broadcast center (Fig. 1; column 6, lines 48-59).

As to claim 5, Shah-Nazaroff discloses wherein the rating feedback comprises a single rated content piece (column 6, lines 48-59), and wherein transmitting the rating feedback comprises transmitting the rating feedback to the remote location in real-time (transmitting the questionnaire as it is completed; column 6, lines 48-59).

As to claim 6, Shah-Nazaroff discloses wherein the second communications link comprises a continuous connection to the remote location (cable, optical; column 3, line 15-21), the remote location being linked to the broadcast source (Fig. 1).

As to claim 7, Shah-Nazaroff discloses wherein the second communications link comprises a connection to the remote location that is initiated to transmit the rating feedback (Internet, telephone lines; column 3, line 15-21), the remote location being linked to the broadcast source (Fig. 1).

As to claim 9, Shah-Nazaroff discloses wherein the content descriptors comprise a continuous stream of data that may be tapped at any time to rate at least a portion of the plurality of content pieces via the rating algorithm (accessing and downloading the questionnaire upon request from the user; column 6, lines 45-47).

As to claim 11, Shah-Nazaroff discloses wherein the rating algorithm includes a consideration of any existing cached data files to generate the rating feedback (column 3, line 56-column 4, line 19).

As to claim 12, Shah-Nazaroff discloses wherein the content descriptors include data pertaining to a revenue-generating potential of at least a portion of the content pieces (discount incentive for a particular broadcast; column 3, lines 33-44), and the rating algorithm includes a consideration of the content piece's revenue generating potential when generating the rating feedback (including a discount for content; column 3, line 33-44).

As to claim 13, Shah-Nazaroff discloses wherein the rating algorithm includes a consideration of a user's previous viewing habits to generate the rating feedback (column 4, lines 4-11).

As to claims 14 and 20, Shah-Nazaroff discloses wherein the rating algorithm includes a consideration of a content piece's size (or duration) to generate the rating feedback (wherein the feedback cannot be generated until the content has finished playing; column 6, lines 23-34).

As to claim 15, Shah-Nazaroff discloses wherein the rating algorithm includes a consideration of a user's preferences to generate the rating feedback (Figs. 4 and 6).

As to claim 16, Shah-Nazaroff discloses wherein the rating algorithm includes a consideration of an availability window corresponding to a content piece to generate the rating feedback (wherein the questionnaire is only available at the end of the content; column 6, lines 23-34).

As to claim 17, Shah-Nazaroff discloses wherein the rating algorithm includes a consideration of a future broadcast schedule to generate the rating feedback (consideration of seeing movies in the future; see Fig. 6).

As to claim 19, Shah-Nazaroff discloses wherein the rating algorithm includes a consideration of a review of a content piece provided by an external source to generate the rating feedback (column 7, lines 33-42).

As to claim 21, Shah-Nazaroff discloses wherein the rating algorithm includes a consideration of a user's age to generate the rating feedback (see Figs. 4 and 6).

As to claim 22, Shah-Nazaroff discloses generating a display on a display device that provides a user-interface that enables a user to rate content pieces so as to indicate a level of desirability for those content pieces if they are broadcast by the broadcast system (column 3, lines 47-55; Figs. 4 and 6).

As to claim 23, Shah-Nazaroff discloses wherein the user rates at least a portion of the content pieces (column 6, lines 23-34).

As to claim 24, Shah-Nazaroff discloses wherein the rating algorithm automatically rates at least a portion of the content pieces (column 3, line 47-column 4, line 11 and column 6, lines 23-34).

As to claim 25, Shah-Nazaroff discloses wherein the rating algorithm automatically rates at least a portion of the content pieces that were not rated by the user (column 3, line 47-column 4, line 19 and column 6, lines 23-34).

As to claim 26, Shah-Nazaroff discloses wherein the rating algorithm includes a consideration of a user's previous viewing habits to generate the rating feedback (column 4, lines 4-11).

As to claims 27 and 33, Shah-Nazaroff discloses wherein the rating algorithm includes a consideration of a content piece's size (or duration) to generate the rating feedback (wherein the feedback cannot be generated until the content has finished playing; column 6, lines 23-34).

As to claim 28, Shah-Nazaroff discloses wherein the rating algorithm includes a consideration of a user's preferences to generate the rating feedback (Figs. 4 and 6).

As to claim 29, Shah-Nazaroff discloses wherein the rating algorithm includes a consideration of an availability window corresponding to a content piece to generate the rating feedback (wherein the questionnaire is only available at the end of the content; column 6, lines 23-34).

As to claim 30, Shah-Nazaroff discloses wherein the rating algorithm includes a consideration of a future broadcast schedule to generate the rating feedback (consideration of seeing movies in the future; see Fig. 6).

As to claim 32, Shah-Nazaroff discloses wherein the rating algorithm includes a consideration of a review of a content piece provided by an external source to generate the rating feedback (column 7, lines 33-42).

As to claim 34, Shah-Nazaroff discloses wherein the rating algorithm includes a consideration of a user's age to generate the rating feedback (see Figs. 4 and 6).

As to claim 35, Shah-Nazaroff discloses wherein the rating algorithm includes a consideration of any existing cached data files to generate the rating feedback (column 3, line 56-column 4, line 19).

As to claim 61, Shah-Nazaroff discloses an article of manufacture (entertainment system, 100; Fig. 1), comprising:

a machine readable medium (Fig. 8) that provides instructions which, when executed by a machine (system controller, 100 controlling the system; column 2, lines 62-67 and column 8, lines 14-46), cause the machine to:

receive broadcast communications (column 2, line 62-column 3, line 4) including content descriptors (column 6, lines 39-47) via a first communications link from a broadcast source (column 6, lines 39-47), the content descriptors including descriptors of a plurality of corresponding content pieces (questionnaires for particular programs; column 6, lines 23-59 and Fig. 4);

perform a rating algorithm (generating the questionnaire for the user to rate the program; column 3, lines 22-32) to rate at least a portion of the plurality of content pieces to generate a rating feedback (column 3, lines 22-55 and column 6, lines 23-59); and

transmit the rating feedback via a second communications link to a remote location (column 3, lines 56-62).

As to claim 62, Shah-Nazaroff discloses wherein the first communications link and the second communications link comprise a common transmission platform (Fig. 1, 150; column 2, line 44-column 3, line 21 and 56-62).

As to claim 64, Shah-Nazaroff discloses wherein the rating feedback comprises a list of rated content pieces (column 6, lines 48-59), and wherein transmitting the rating feedback comprises periodically transmitting a batch of the rating feedback to the remote location (storing and transmitting several responses; column 6, lines 48-59), the remote location being linked to the broadcast center (Fig. 1; column 6, lines 48-59).

As to claim 65, Shah-Nazaroff discloses wherein the rating feedback comprises a single rated content piece (column 6, lines 48-59), and wherein transmitting the rating feedback comprises transmitting the rating feedback to the remote location in real-time (transmitting the questionnaire as it is completed; column 6, lines 48-59).

As to claim 66, Shah-Nazaroff discloses wherein the second communications link comprises a continuous connection to the remote location (cable, optical; column 3, line 15-21), the remote location being linked to the broadcast source (Fig. 1).

As to claim 67, Shah-Nazaroff discloses wherein the second communications link comprises a connection to the remote location that is initiated to transmit the rating feedback (Internet, telephone lines; column 3, line 15-21), the remote location being linked to the broadcast source (Fig. 1).

As to claim 68, Shah-Nazaroff discloses wherein the rating algorithm includes a consideration of any existing cached data files to generate the rating feedback (column 3, line 56-column 4, line 19).

As to claim 69, Shah-Nazaroff discloses wherein the content descriptors include data pertaining to a revenue-generating potential of at least a portion of the content pieces (discount incentive for a particular broadcast; column 3, lines 33-44), and the rating algorithm includes a consideration of the content piece's revenue generating potential when generating the rating feedback (including a discount for content; column 3, line 33-44).

As to claim 70, Shah-Nazaroff discloses wherein the rating algorithm includes a consideration of a user's previous viewing habits to generate the rating feedback (column 4, lines 4-11).

As to claims 71 and 77, Shah-Nazaroff discloses wherein the rating algorithm includes a consideration of a content piece's size (or duration) to generate the rating feedback (wherein the feedback cannot be generated until the content has finished playing; column 6, lines 23-34).

As to claim 72, Shah-Nazaroff discloses wherein the rating algorithm includes a consideration of a user's preferences to generate the rating feedback (Figs. 4 and 6).

As to claim 73, Shah-Nazaroff discloses wherein the rating algorithm includes a consideration of an availability window corresponding to a content piece to generate the rating feedback (wherein the questionnaire is only available at the end of the content; column 6, lines 23-34).

As to claim 74, Shah-Nazaroff discloses wherein the rating algorithm includes a consideration of a future broadcast schedule to generate the rating feedback (consideration of seeing movies in the future; see Fig. 6).

As to claim 76, Shah-Nazaroff discloses wherein the rating algorithm includes a consideration of a review of a content piece provided by an external source to generate the rating feedback (column 7, lines 33-42).

As to claim 78, Shah-Nazaroff discloses wherein the rating algorithm includes a consideration of a user's age to generate the rating feedback (see Figs. 4 and 6).

As to claim 79, Shah-Nazaroff discloses wherein execution of the instructions by the machine, further cause the machine to generate a display on a display device that provides a user-interface that enables a user to rate content pieces so as to indicate a level of desirability for those content pieces if they are broadcast by the broadcast system (column 3, lines 47-55; Figs. 4 and 6).

As to claim 80, Shah-Nazaroff discloses wherein the user rates at least a portion of the content pieces (column 6, lines 23-34).

As to claim 81, Shah-Nazaroff discloses wherein the rating algorithm automatically rates at least a portion of the content pieces (column 3, line 47-column 4, line 11 and column 6, lines 23-34).

As to claim 82, Shah-Nazaroff discloses wherein the rating algorithm automatically rates at least a portion of the content pieces that were not rated by the user (column 3, line 47-column 4, line 19 and column 6, lines 23-34).

As to claim 83, Shah-Nazaroff discloses a method, comprising:
broadcasting broadcast communications including content descriptors (column 6, lines 39-47) from a broadcast source to a plurality of client systems (Fig. 1; column 2, line 62-column 3, line 4) via a first communications link, the content descriptors including descriptors of a plurality of corresponding content pieces (questionnaires for particular programs; column 6, lines 23-59 and Fig. 4); and

receiving a rating feedback from the plurality of client systems via a second communications link (column 3, lines 56-62), wherein the rating feedback comprises a rating of at least a portion of the plurality of content pieces (column 3, lines 22-55 and column 6, lines 23-59).

As to claim 84, Shah-Nazaroff discloses wherein the rating feedback comprises a plurality of rated content pieces (column 6, lines 48-59), and wherein receiving the rating feedback comprises periodically receiving the feedback as a batch of rated content pieces from each of the plurality of client systems (storing and transmitting several responses; column 6, lines 48-59).

As to claim 85, Shah-Nazaroff discloses wherein the rating feedback comprises a single rated content piece (column 6, lines 48-59), and wherein receiving the rating feedback comprises receiving the rating feedback in real-time (transmitting the questionnaire as it is completed; column 6, lines 48-59).

As to claim 86, Shah-Nazaroff discloses wherein the first communications link and the second communications link comprise a common transmission platform (Fig. 1, 150; column 2, line 44-column 3, line 21 and 56-62).

As to claim 88, Shah-Nazaroff discloses wherein the second communications link comprises a continuous connection from each of the plurality of client systems for receiving the rating feedback (cable, optical; column 3, line 15-21).

As to claim 89, Shah-Nazaroff discloses wherein the second communications link comprises a connection initiated by each of the plurality of client systems (Internet, telephone lines; column 3, line 15-21).

As to claim 90, Shah-Nazaroff discloses wherein the content descriptors comprise a continuous stream of data that may be tapped at any time to rate at least a portion of the plurality of content pieces (accessing and downloading the questionnaire upon request from the user; column 6, lines 45-47).

As to claim 91, Shah-Nazaroff discloses wherein the rating of at least a portion of the plurality of content pieces is generated via a rating algorithm (generating the questionnaire for the user to rate the program; column 3, lines 22-32).

As to claim 92, Shah-Nazaroff discloses wherein the rating feedback includes user rating of content pieces to indicate a level of desirability in receiving those content pieces if they are broadcast by the broadcast system (desirability of seeing the movies in the future; see Fig. 6).

As to claim 93, Shah-Nazaroff discloses wherein the rating feedback is received from each of the plurality of client systems independently (wherein each user independently performs and transmits their feedback; column 6, lines 23-59).

As to claim 94, Shah-Nazaroff discloses a broadcast system (Fig. 1), comprising:
a server (170; Fig. 1);
at least one communications link (150, Fig. 1) to transmit broadcast communications including (column 2, line 62-column 3, line 4) including content descriptors (column 6, lines 39-47) to a plurality of client systems (Fig. 1; column 2, line 62-column 3, line 4), the content descriptors including descriptions of a plurality of corresponding content pieces (questionnaires for particular programs; column 6, lines 23-59 and Fig. 4), and to transmit a rating feedback from each of the plurality of client systems to the server (column 3, lines 56-62), wherein the rating feedback comprises a

rating of at least a portion of the plurality of content pieces (column 3, lines 22-55 and column 6, lines 23-59).

As to claim 95, Shah-Nazaroff discloses wherein the rating feedback is transmitted periodically as a batch of rated content pieces (storing and transmitting several responses; column 6, lines 48-59) via the at least one communications link from each of the plurality of client systems to the server (Fig. 1; column 3, lines 56-62).

As to claim 96, Shah-Nazaroff discloses wherein the rating feedback comprises a single rated content piece (column 6, lines 48-59), and wherein the rating feedback is transmitted via the at least one communications link from at least one of the plurality of client systems to the server (transmitting the questionnaire as it is completed; column 6, lines 48-59).

As to claim 97, Shah-Nazaroff discloses wherein the at least one communications link comprises a continuous connection to transmit rating feedback from each of the plurality of client systems to the server (cable, optical; column 3, line 15-21).

As to claim 98, Shah-Nazaroff discloses wherein the at least one communications link comprises a connection from each of the plurality of client systems

to the server that is initiated to transmit the rating feedback (Internet, telephone lines; column 3, line 15-21).

As to claim 99, Shah-Nazaroff discloses wherein the content descriptors comprise a continuous stream of data that may be tapped at any time to rate at least a portion of the plurality of content pieces (accessing and downloading the questionnaire upon request from the user; column 6, lines 45-47).

As to claim 100, Shah-Nazaroff discloses wherein the rating of at least a portion of the plurality of content pieces is generated via a rating algorithm (generating the questionnaire for the user to rate the program; column 3, lines 22-32).

As to claim 101, Shah-Nazaroff discloses wherein the rating feedback includes user rating of content pieces to indicate a level of desirability in receiving those content pieces if they are broadcast by the broadcast system (desirability of seeing the movies in the future; see Fig. 6).

As to claim 102, Shah-Nazaroff discloses wherein the rating feedback is transmitted independently from each of the plurality of client systems (wherein each user independently performs and transmits their feedback; column 6, lines 23-59).

As to claim 103, Shah-Nazaroff discloses an article of manufacture, comprising:

a machine-readable medium that provides instructions which (stored programming controlling the server; Fig. 1), when executed by a machine, cause the machine to:

broadcast broadcast communications including content descriptors (column 6, lines 39-47) from a broadcast source to a plurality of client systems (Fig. 1; column 2, line 62-column 3, line 4) via a first communications link, the content descriptors including descriptors of a plurality of corresponding content pieces (questionnaires for particular programs; column 6, lines 23-59 and Fig. 4); and

receive a rating feedback from the plurality of client systems via a second communications link (column 3, lines 56-62), wherein the rating feedback comprises a rating of at least a portion of the plurality of content pieces (column 3, lines 22-55 and column 6, lines 23-59).

As to claim 104, Shah-Nazaroff discloses wherein the rating feedback comprises a plurality of rated content pieces (column 6, lines 48-59), and wherein receiving the rating feedback comprises periodically receiving the feedback as a batch of rated content pieces from each of the plurality of client systems (storing and transmitting several responses; column 6, lines 48-59).

As to claim 105, Shah-Nazaroff discloses wherein the rating feedback comprises a single rated content piece (column 6, lines 48-59), and wherein receiving the rating

feedback comprises receiving the rating feedback in real-time (transmitting the questionnaire as it is completed; column 6, lines 48-59).

As to claim 106, Shah-Nazaroff discloses wherein the first communications link and the second communications link comprise a common transmission platform (Fig. 1, 150; column 2, line 44-column 3, line 21 and 56-62).

As to claim 108, Shah-Nazaroff discloses wherein the second communications link comprises a continuous connection from each of the plurality of client systems for receiving the rating feedback (cable, optical; column 3, line 15-21).

As to claim 109, Shah-Nazaroff discloses wherein the second communications link comprises a connection initiated by each of the plurality of client systems (Internet, telephone lines; column 3, line 15-21).

As to claim 110, Shah-Nazaroff discloses wherein the rating of at least a portion of the plurality of content pieces is generated via a rating algorithm (generating the questionnaire for the user to rate the program; column 3, lines 22-32).

As to claim 111, Shah-Nazaroff discloses wherein the rating feedback includes user rating of content pieces to indicate a level of desirability in receiving those content

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pieces if they are broadcast by the broadcast system (desirability of seeing the movies in the future; see Fig. 6).

As to claim 112, Shah-Nazaroff discloses a broadcast system (Fig. 1), comprising:

- a server (170; Fig. 1);

- at least one communications link (150, Fig. 1);

- a client system (100; Fig. 1), the client system including a processor (controller, 110) and a memory to store a rating algorithm (column 6, lines 35-47); and wherein

- a plurality of content descriptors are transmitted via the at least one communications link (column 6, lines 39-47) to the client system (Fig. 1; column 2, line 62-column 3, line 4), the plurality of content descriptors including descriptions of a plurality of content pieces (questionnaires for particular programs; column 6, lines 23-59 and Fig. 4);

- the processor implements the rating algorithm to rate at least a portion of the plurality of content pieces to generate a rating feedback (generating the questionnaire for the user to rate the program; column 3, lines 22-32); and

- the rating feedback is transmitted via the at least one communications link to the server (column 3, lines 56-62).

As to claim 113, Shah-Nazaroff discloses wherein the rating feedback is transmitted periodically via the at least one communications link to the server as a batch

of rated content pieces (storing and transmitting several responses; column 6, lines 48-59).

As to claim 114, Shah-Nazaroff discloses wherein the rating feedback comprises a single rated content piece (column 6, lines 48-59), and wherein the rating feedback is transmitted via the at least one communications link in real-time (transmitting the questionnaire as it is completed; column 6, lines 48-59).

As to claim 115, Shah-Nazaroff discloses wherein the rating feedback includes user rating of the content pieces (column 3, lines 23-32).

As to claim 116, Shah-Nazaroff discloses wherein the rating feedback includes automated rating of the content pieces (column 3, line 55-column 4, line 11).

As to claim 117, Shah-Nazaroff discloses wherein the rating feedback includes user rating of the content pieces (column 3, lines 23-32) and automated rating of the content pieces (column 3, line 55-column 4, line 11).

As to claim 118, Shah-Nazaroff discloses wherein the
at least one communications link comprises a continuous connection from each of the plurality of client systems for receiving the rating feedback (cable, optical; column 3, line 15-21).

As to claim 119, Shah-Nazaroff discloses wherein the at least one communications link comprises a connection initiated by each of the plurality of client systems (Internet, telephone lines; column 3, line 15-21).

As to claim 120, Shah-Nazaroff discloses a method, comprising:
broadcasting content descriptors from a server to at least one client system (column 6, lines 39-47) via at least one communications link (150), the content descriptors including descriptions of a plurality of corresponding content pieces (questionnaires for particular programs; column 6, lines 23-59 and Fig. 4);
receiving the content descriptors at the at least one client system (column 6, lines 39-47);
rating at least a portion of the plurality of content pieces to generate a rating feedback (column 3, lines 22-55 and column 6, lines 23-59); and
communicating the rating feedback to the server periodically via the at least one communications link (column 3, lines 56-62 and column 6, lines 54-59).

As to claim 121, Shah-Nazaroff discloses processing the rating feedback to generate an aggregate representation of the feedback from the at least one client system (Figs. 5 and 7; column 4, lines 20-26 and column 5, line 54-column 6, line 22),
and

selecting a portion of the plurality of content pieces to be sent to the that least one client system in response to the aggregate representation of the feedback (column 6, line 60-column 7, line 9).

As to claim 122, Shah-Nazaroff discloses wherein communicating the rating feedback to the server comprises periodically communicating a batch of rating feedback (storing and transmitting several responses; column 6, lines 48-59).

As to claim 123, Shah-Nazaroff discloses wherein the rating feedback comprises a single rated content piece (column 6, lines 48-59), and wherein communicating the rating feedback to the server comprises communicating the rating feedback in real-time (transmitting the questionnaire as it is completed; column 6, lines 48-59).

As to claim 124, Shah-Nazaroff discloses wherein the at least one communications link comprises a continuous connection for communicating the rating feedback to the server (cable, optical; column 3, line 15-21).

As to claim 125, Shah-Nazaroff discloses wherein the at least one communications link comprises a connection initiated by the at least one client system for communicating the rating feedback to the server (Internet, telephone lines; column 3, line 15-21).

As to claim 126, Shah-Nazaroff discloses wherein the rating feedback includes user rating of the content pieces (column 3, lines 23-32).

As to claim 127, Shah-Nazaroff discloses wherein the rating feedback includes automated rating of the content pieces (column 3, line 55-column 4, line 11).

As to claim 128, Shah-Nazaroff discloses wherein the rating feedback includes user rating of the content pieces (column 3, lines 23-32) and automated rating of the content pieces (column 3, line 55-column 4, line 11).

As to claim 129, Shah-Nazaroff discloses wherein the rating feedback is transmitted from each at least one client system to the server independently (wherein each user independently performs and transmits their feedback; column 6, lines 23-59).

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 61, 83 and 103 are rejected under 35 U.S.C. 102(b) as being anticipated by Hackson et al. (Hackson) (WO 00/27124).

As to claim 1, Hackson discloses a method, comprising:

receiving broadcast communications (page 4, lines 3-9) including content descriptors (page 9, lines 21-29) via a first communications link from a broadcast source (page 9, lines 21-29), the content descriptors including descriptors of a plurality of corresponding content pieces (questionnaires for particular programs; page 9, line 13-page 10, line 1-8 and Fig. 4);

performing a rating algorithm (generating the questionnaire for the user to rate the program; page 4, lines 22-28) to rate at least a portion of the plurality of content pieces to generate a rating feedback (page 4, line 22-page 5, line 14 and page 9, line 13-page 10, line 8); and

transmitting the rating feedback via a second communications link to a remote location (page 5, lines 15-19).

As to claim 61, Hackson discloses an article of manufacture (entertainment system, 100; Fig. 1), comprising:

a machine readable medium (Fig. 8) that provides instructions which, when executed by a machine (system controller, 100 controlling the system; page 4, lines 3-9 and page 12, line 11-page 13, line 2), cause the machine to:

receive broadcast communications (page 4, lines 3-9) including content descriptors (page 9, lines 21-30) via a first communications link from a broadcast source (page 9, lines 21-30), the content descriptors including descriptors of a plurality of corresponding content pieces (questionnaires for particular programs; page 9, line 13-page 10, line 8 and Fig. 4);

perform a rating algorithm (generating the questionnaire for the user to rate the program; page 4, lines 22-28) to rate at least a portion of the plurality of content pieces to generate a rating feedback (page 4, line 22-page 5, line 14 and page 9, line 13-page 10, line 8); and

transmit the rating feedback via a second communications link to a remote location (page 5, lines 15-20).

As to claim 83, Hackson discloses a method, comprising:

broadcasting broadcast communications including content descriptors (page 9, lines 21-30) from a broadcast source to a plurality of client systems (Fig. 1; page 4, lines 3-14) via a first communications link (Fig. 1), the content descriptors including descriptors of a plurality of corresponding content pieces (questionnaires for particular programs; page 9, line 13-page 10, line 8 and Fig. 4); and

receiving a rating feedback from the plurality of client systems via a second communications link (page 5, lines 15-19), wherein the rating feedback comprises a rating of at least a portion of the plurality of content pieces (page 4, line 22-page 5, line 14 and page 9, line 13-page 10, line 8).

As to claim 103, Hackson discloses an article of manufacture, comprising:

a machine-readable medium that provides instructions which (stored programming controlling the server; Fig. 1), when executed by a machine, cause the machine to:

broadcast broadcast communications including content descriptors (page 9, lines 21-30) from a broadcast source to a plurality of client systems (Fig. 1; page 4, lines 3-14) via a first communications link (Fig. 1), the content descriptors including descriptors of a plurality of corresponding content pieces (questionnaires for particular programs; page 9, line 13-page 10, line 8 and Fig. 4); and

receive a rating feedback from the plurality of client systems via a second communications link (page 5, lines 15-19), wherein the rating feedback comprises a rating of at least a portion of the plurality of content pieces (page 4, line 22-page 5, line 14 and page 9, line 13-page 10, line 8).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 3, 8, 10, 18, 31, 36-60, 63, 75, 87 and 107 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hackson et al. (Hackson) (WO 00/27124).

As to claim 36, Hackson discloses an apparatus (Fig. 8), comprising:

a processor (controller, 110);

a memory, coupled to the processor, to store a plurality of machine instructions including a rating algorithm (page 9, lines 21-30);

a communications interface, coupled to the processor (Fig. 8), which enables the apparatus to receive broadcast communications from a broadcast source via a first communications link (Fig. 8; page 4, lines 3-14), and to send rating feedback to the broadcast source via a second communications link (page 5, lines 15-19), the broadcast communications including a plurality of content descriptors that describe a plurality of corresponding content pieces (questionnaires for particular programs; page 9, line 13- page 10, line 8 and Fig. 4); and

wherein execution of the machine instructions by the processor causes the apparatus to receive the content descriptors as they are broadcast (page 4, lines 22-28), to perform the rating algorithm to generate the rating feedback (generating the questionnaire for the user to rate the program; page 4, lines 22-28), the rating feedback corresponding to at least a portion of the plurality of content pieces (page 4, line 22- page 5, line 14 and page 9, line 13- page 10, line 8), and to transmit the rating feedback to the broadcast source (page 5, lines 15-19).

While Hackson discloses a storage device, coupled to the processor (Fig. 8; page 13, lines 11-22), he fails to specifically disclose storing content pieces.

The examiner takes Official Notice that it was notoriously well known in the art at the time of invention by applicant to allow a user to store content, such as with typical VCR or DVR device, for the benefit of allowing a television viewer to conveniently store a program or movie for viewing at later time.

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Hackson's system to include storing content pieces for

the typical benefit of allowing a television viewer to conveniently store a program or movie for viewing at later time.

As to claim 37, Hackson discloses wherein transmitting the rating feedback to the broadcast source comprises periodically transmitting the rating feedback as a batch of rated content pieces via the communications interface (storing and transmitting several responses; page 10, lines 1-8).

As to claim 38, Hackson discloses wherein the rating feedback comprises a single rated content piece (page 10, lines 1-8), and wherein transmitting the rating feedback to the broadcast source comprises transmitting the rating feedback in real-time (transmitting the questionnaire as it is completed; page 10, lines 1-8).

As to claim 39, Hackson discloses wherein the first communications link and the second communications link comprise a common transmission platform (Fig. 1, 150; page 3, line 20-page 4, line 14 and page 5, lines 15-19).

As to claim 41, Hackson discloses wherein the communications link maintains a continuous connection to a remote location to transmit the rating feedback (cable, optical; page 4, lines 18-21), the remote location being linked to the broadcast source (Fig. 1).

As to claim 42, Hackson discloses wherein the communications interface initiates a connection to a remote location via a communications link to transmit the rating feedback (Internet, telephone lines; page 4, lines 18-21), the remote location being linked to the broadcast source (Fig. 1).

As to claim 44, Hackson discloses wherein the content descriptors comprise a continuous stream of data that may be tapped at any time by the communications interface to enable the processor to perform the rating algorithm to rate at least a portion of the plurality of content pieces (accessing and downloading the questionnaire upon request from the user; page 9, lines 28-30).

As to claim 47, Hackson discloses wherein the content descriptors include data pertaining to a revenue-generating potential of at least a portion of the content pieces (discount incentive for a particular broadcast; page 4, line 29-page 5, line 6), and the rating algorithm includes a consideration of the content piece's revenue generating potential when generating the rating feedback (including a discount for content; page 4, line 29-page 5, line 6).

As to claim 48, Hackson discloses wherein the memory stores data pertaining to a user's previous viewing habits (page 5, lines 25-30), and the rating algorithm includes a consideration of a user's previous viewing habits to generate the rating feedback (page 5, lines 25-30).

As to claims 49 and 55, Hackson discloses wherein the content descriptors including data pertaining to a content piece's size (or duration; page 11, lines 17-13), and the rating algorithm includes a consideration of a content piece's size (or duration) to generate the rating feedback (page 11, lines 17-13 and page 9, lines 13-20).

As to claim 50, Hackson discloses wherein the memory stores data pertaining to a user's preferences (page 5, lines 25-30), the rating algorithm includes a consideration of a user's preferences to generate the rating feedback (page 5, lines 25-30).

As to claim 51, Hackson discloses wherein the content descriptors include data pertaining to an availability window corresponding to a content piece (wherein the questionnaire is only available at the end of the content; page 11, lines 17-13 and page 9, lines 13-20), and the rating algorithm includes a consideration of the availability window to generate the rating feedback (wherein the questionnaire is only available at the end of the content; page 11, lines 17-13 and page 9, lines 13-20).

As to claim 52, Hackson discloses wherein the content descriptors include data pertaining to a future broadcast schedule (Fig. 6), and the rating algorithm includes a consideration of a future broadcast schedule to generate the rating feedback (consideration of seeing movies in the future; see Fig. 6).

As to claim 54, Hackson discloses wherein the content descriptors include data pertaining to a review of a content piece provided by an external source (page 11, lines 17-13), and the rating algorithm includes a consideration of a review of a content piece provided by an external source to generate the rating feedback (page 11, lines 17-13).

As to claim 56, Hackson discloses wherein the memory stores data pertaining to a user's age (page 5, lines 25-30), and the rating algorithm includes a consideration of a user's age to generate the rating feedback (see Figs. 4 and 6).

As to claim 57, Hackson discloses wherein the apparatus further includes a video subsystem (Fig. 8) having an output that generates a display on a display device when the display device is connected to the output (page 5, lines 10-14), wherein execution of the plurality of machine instructions by the processor causes the apparatus to provide a user-interface that enables a user to rate content pieces so as to indicate a level of desirability for those content pieces if they are broadcast by the broadcast system (page 5, lines 10-14; Figs. 4 and 6).

As to claim 58, Hackson discloses wherein the user rates at least a portion of the content pieces (page 9, lines 13-20).

As to claim 59, Hackson discloses wherein the rating algorithm automatically rates at least a portion of the content pieces (page 5, lines 10-30 and page 9, lines 13-20).

As to claim 60, Hackson discloses wherein the rating algorithm automatically rates at least a portion of the content pieces that were not rated by the user (page 5, line 10-page 6, line 5 and page 9, lines 13-20).

As to claims 3, 40, 63, 87 and 107, while Hackson discloses wherein the first and second communications links may be a plurality of media (such as cable, satellite, telephone lines; page 4, lines 18-21), he fails to specifically disclose wherein the first communications link and the second communications link comprise separate transmission platforms.

The examiner takes Official Notice that it was notoriously well known in the art at the time of invention to utilize separate transmission platforms for upstream/downstream communications, such as with a typical satellite system utilizing telephone lines for upstream communication, for the benefit of allowing the use of existing infrastructure to cheaply and easily incorporate two-way transmissions in a communications system.

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Hackson's system to include wherein the first communications link and the second communications link comprise separate

transmission platforms for the benefit of allowing the use of existing infrastructure to cheaply and easily incorporate two-way transmissions in a communications system.

As to claims 10 and 45, while Hackson discloses receiving broadcast communications including the plurality of content pieces (page 2, lines 16-27 and page 7, line 16-page 8, line 15) and using a rating algorithm to rate the content pieces to determine which best match the viewer's interests (page 7, line 16-page 9, line 12), he fails to specifically disclose performing a capture algorithm to selectively determine which, if any, of the content pieces should be cached, and

wherein the rating algorithm is identical to the capture algorithm.

The examiner takes Official Notice that it was notoriously well known in the art at the time of invention by applicant to utilize rating data to selectively download and store programming matching a viewer's interests for the typical benefit of providing a user-friendly system for finding and storing programming most likely to be desired by the viewer.

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Hackson's system to include performing a capture algorithm to selectively determine which, if any, of the content pieces should be cached, and wherein the rating algorithm is identical to the capture algorithm for the typical benefit of providing a user-friendly system for finding and storing programming most likely to be desired by the viewer.

As to claims 18, 31, 53 and 75, while Hackson discloses wherein content descriptors include data pertaining to the content piece (page 11, lines 17-13) and the rating algorithm takes into consideration the data pertaining to the content piece to generate the rating feedback (providing the user with information such as producer, distributor, etc...; page 11, lines 17-13), he fails to specifically disclose the content piece's past revenue performance.

The examiner takes Official Notice that it was notoriously well known in the art at the time of invention by applicant to provide past revenue performance information, which could include video sales, box office receipts or the user's own pay-per view ordering or rental history, for the typical benefit of providing the user with as much information as possible to accurately determine their current interest and preferences towards the content.

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Hackson's system to include the content piece's past revenue performance for the typical benefit of providing the user with as much information as possible to accurately determine their current interest and preferences towards the content.

As to claims 8 and 43, while Hackson discloses wherein the broadcast communications include content descriptors which are received at pre-determined time intervals (at the end of a broadcast or in a batch at some prior time period; page 9, lines 13-30), he fails to specifically disclose receiving a schedule pertaining to when the

content descriptors will be broadcast prior to the content descriptors and utilizing the schedule to enable receipt of the content descriptors.

The examiner takes Official Notice that it was notoriously well known in the art at the time of invention by applicant to provide a schedule indicating when/how data is to be received for the typical benefit of providing a means to ensure that a receiver will correctly receive data transmissions.

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Hackson's system to include receiving a schedule pertaining to when the content descriptors will be broadcast prior to the content descriptors and utilizing the schedule to enable receipt of the content descriptors for the typical benefit of providing a means to ensure that a receiver will correctly receive data transmissions.

As to claim 46, while Hackson discloses wherein at least one content piece is cached (see the rejection of claim 36 above) and wherein the rating algorithm takes into consideration viewer's history and preferences when generating the rating feedback (page 5, lines 15-30), he fails to specifically disclose considering the at least one cached content piece when generating the rating feedback.

The examiner takes Official Notice that it was notoriously well known in the art at the time of invention by applicant to utilize cached content as a means to determine user preferences and interests, such as programs or movies a user has chosen to

record and view in the past, for the typical benefit of providing a more robust, inclusive profile of user interests.

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Hackson's system to include considering the at least one cached content piece when generating the rating feedback for the typical benefit of providing a more robust, inclusive profile of user interests.

Response to Arguments

7. Applicant's arguments with respect to the rejection(s) of claim(s) 3, 8, 10, 18, 31, 36-60, 63, 75, 87 and 107 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Hackson et al. (WO 00/27124).

8. Applicant's arguments filed 11/18/05 have been fully considered but they are not persuasive.

a. On page 18, applicant argues that Shah-Nazaroff fails to disclose a first communication link and a separate second communications link.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., wherein the first and second communications links are separate) are not recited in the rejected claim(s). Although the claims are interpreted in light of

the specification, limitations from the specification are not read into the claims.

See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

In response, the current claim limitations of a “first” and a “second” link do not specifically require or limit the claims to *separate and distinct* links. In this case, Shah-Nazaroff discloses a communications medium 150 which performs the functions of both the first link and the second link, which meets the broad claim limitations.

b. On pages 18 and 19, applicant argues that Shah-Nazaroff fails to disclose wherein the content descriptors are received from a broadcast source and transmitted to a remote location, not the same server.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., wherein the broadcast source and the remote location are separate) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

In response, the current claim limitations do not require that the remote location and the broadcast source to be separate locations. As the server, 170 of Shah-Nazaroff is clearly remote from the user (see Fig. 1), it clearly reads upon the broad limitation of a “remote location.”

c. In response to applicant's arguments on page 19, in regards to claim 61, see (a) and (b) above.

d. On page 20, of applicant's response, applicant argues that Shah-Nazaroff fails to disclose transmitting to and receiving from a plurality of client systems, as Shah-Nazaroff describes a single entertainment system 100.

In response, the examiner is not convinced by applicant's arguments and is unsure as to how applicant feels that the system of Shah-Nazaroff only utilizes a single client system, as the basic functionality of Shah-Nazaroff's system is as a broadcast system for a **plurality of viewers** to transmit and receive ratings information (see for example, Fig. 1, column 2, lines 50-61, column 3, lines 5-15, column 4, lines 27-42, column 6, line 66-column 7, line 9). The system of Shah-Nazaroff clearly meets the claim limitation of a plurality of client systems.

e. In response to applicant's arguments on pages 20 and 21, in regards to claim 103, see (a) and (b) above.

f. On page 21, applicant argues that Shah-Nazaroff fails to disclose wherein the processor implements the rating algorithm to rate at least a portion of the plurality of content pieces to generate a rating feedback.

In response, as indicated in the previous rejections, Shah-Nazaroff specifically discloses wherein the system controller (110) will provide the

questionnaire to the viewer (column 3, lines 23-32 and column 6, lines 35-47).

As the system controller will retrieve and generate the questionnaire for display to the viewer to allow the viewer to rate programs, this clearly meets the claim limitation of implementing the rating algorithm to rate at least a portion of the plurality of content pieces to generate a rating feedback.

g. On page 22, of applicant's response, applicant argues that Shah-Nazaroff fails to disclose communicating the rating feedback periodically because "nowhere within this portion of Shah-Nazaroff cited by the Examiner is the frequency of transmission indicated."

In response, Shah-Nazaroff specifically discloses wherein the system will wait for several responses to be stored before they are sent to the programming server (column 6, lines 48-59). As there is no specific requirement in the claims for any particular defined response period for frequency, this clearly meets the current broad claim limitation.

9. The Official Notice presented in the prior office action stating that it is notoriously well known in the art to allow a user to store content was not traversed and is accordingly taken as an admission of the fact noted.

10. The Official Notice presented in the prior office action stating that it is notoriously well known in the art to utilize separate transmission platforms for

upstream/downstream communications was not traversed and is accordingly taken as an admission of the fact noted.

11. The Official Notice presented in the prior office action stating that it is notoriously well known in the art to allow a user to utilize rating data to selectively download and store programming matching a viewer's interests was not traversed and is accordingly taken as an admission of the fact noted.

12. The Official Notice presented in the prior office action stating that it is notoriously well known in the art to provide past revenue performance information was not traversed and is accordingly taken as an admission of the fact noted.

13. The Official Notice presented in the prior office action stating that it is notoriously well known in the art to allow a user to provide a schedule indicating when/how data is to be received was not traversed and is accordingly taken as an admission of the fact noted.

14. The Official Notice presented in the prior office action stating that it is notoriously well known in the art to utilize cached content as a means to determine user preferences and interests was not traversed and is accordingly taken as an admission of the fact noted.

Art Unit: 2617

Conclusion

15. The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with all correspondence concerning this application or proceeding to establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in such communication being considered as timely if the established date is within the required period for reply. The Certificate should be signed by the individual actually depositing or transmitting the correspondence or by an individual who, upon information and belief, expects the correspondence to be mailed or transmitted in the normal course of business by another no later than the date indicated.

Certificate of Mailing

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

on _____.
(Date)

Typed or printed name of person signing this certificate:

Signature: _____

Registration Number: _____

Certificate of Transmission

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, Fax No. (703)_____ - _____ on _____.
(Date)

Typed or printed name of person signing this certificate:

Signature: _____

Registration Number: _____

Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Sheleheda whose telephone number is (571) 272-7357. The examiner can normally be reached on 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on (571) 272-7331. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

James Sheleheda
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Art Unit 2617

JS



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